

1978

## c 67 The Children's Mental Health Services Act, 1978

Ontario

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## CHAPTER 67

**An Act to revise  
The Children's Mental Health Centres Act***Assented to November 30th, 1978*

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. In this Act,**Interpre-  
tation

- (a) "approved children's mental health centre" means a children's mental health centre approved under section 6;
- (b) "approved corporation" means a corporation approved under section 5;
- (c) "children's mental health centre" means all or any part of a building or buildings maintained and operated to provide services for children suffering from mental, emotional or psychiatric disorders or any combination thereof;
- (d) "Director" means an employee of the Ministry appointed by the Minister as a director for all or any of the purposes of this Act;
- (e) "Minister" means the Minister of Community and Social Services;
- (f) "Ministry" means the Ministry of Community and Social Services;
- (g) "regulations" means the regulations made under this Act. R.S.O. 1970, c. 68, s. 1; R.S.O. 1970, c. 69, s. 1; 1972, c. 1, s. 1, *amended*.

**2.—(1)** The Minister may appoint one or more persons to act as a Director.

Appointment  
of Director

Duties of  
Director

(2) A Director shall perform the duties imposed and may exercise the powers conferred upon a Director by this Act or the regulations or by any other Act or regulation thereunder.

Acting  
Director

(3) Where a Director is absent or there is a vacancy in the office of a Director, the powers and duties of the Director shall be exercised and performed by such employee of the Ministry as the Minister designates. *New.*

Centres  
established  
by  
Minister

3. The Minister, with the approval of the Lieutenant Governor in Council, may establish, operate and maintain one or more children's mental health centres. R.S.O. 1970, c. 68, s. 3; R.S.O. 1970, c. 69, s. 2 (1), *amended.*

Existing  
hospitals  
to continue

4.—(1) Subject to this Act and the regulations, a hospital established under section 2 of *The Children's Mental Hospitals Act*, being chapter 69 of the Revised Statutes of Ontario, 1970 or designated under the regulations made under that Act before this Act comes into force, shall be deemed to continue as a children's mental health centre under section 3 of this Act until the establishment or designation is revoked by the Lieutenant Governor in Council.

Board of  
governors  
to continue

(2) Subject to this Act and the regulations, a board of governors appointed under section 4 of *The Children's Mental Hospitals Act*, being chapter 69 of the Revised Statutes of Ontario, 1970 before this Act comes into force, shall be deemed to continue as a board under this Act as if section 4 of *The Children's Mental Hospitals Act* were in force, until the appointment of the board is revoked by the Lieutenant Governor in Council.

Children's  
mental  
health  
centres to  
continue

(3) Subject to this Act and the regulations, a children's mental health centre designated as such by the regulations under *The Children's Mental Health Centres Act*, being chapter 68 of the Revised Statutes of Ontario, 1970 before this Act comes into force, shall be deemed to be an approved children's mental health centre until the approval is suspended or revoked.

Corporations  
to continue

(4) Subject to this Act and the regulations, a corporation that operates a children's mental health centre designated as such by the regulations under *The Children's Mental Health Centres Act*, being chapter 68 of the Revised Statutes of Ontario, 1970 before this Act comes into force, shall be deemed to be an approved corporation until the approval is suspended or revoked. *New.*

Approval of  
corporations

5.—(1) Where the Minister is satisfied that any corporation is, with financial assistance under this Act and the regu-

lations, financially capable of establishing, maintaining and operating a children's mental health centre and that its affairs are carried on under competent management in good faith, the Minister may approve the corporation for the purposes of this Act and the regulations.

(2) Where the Minister intends to approve a corporation under subsection 1, the Minister may enter into an agreement with the corporation for the establishment of a children's mental health centre upon such terms and conditions as may be agreed and may direct payment of expenditures as are necessary for the purpose. *New.*

Funding of corporations

6.—(1) Where the Minister is satisfied that all or any part of a building or buildings is suitable for providing services as a children's mental health centre in accordance with this Act and the regulations and that there is a need for a children's mental health centre in the area served or to be served by the centre, the Minister may approve all or any part of the building or buildings, as the case may be, as a children's mental health centre and assistance may be given under this Act and the regulations for the maintenance and operation of the children's mental health centre.

Approval of buildings

(2) An approval given under subsection 1 or under section 5 may take effect on any date fixed by the Minister that is prior to the date on which the approval is given, but in no case shall the date upon which the approval under subsection 1 takes effect precede the date on which the approval given under section 5 to the corporation maintaining and operating the children's mental health centre takes effect. *New.*

Effective date of approval

7.—(1) Subject to this section, any approval given under section 5 or 6 may be suspended or revoked by the Minister where,

Suspension and revocation of approvals

(a) any director, officer or employee of the approved corporation has contravened or knowingly permitted any person under the control and direction of the director, officer or employee, as the case may be, to contravene any provision of this Act or the regulations; or

(b) the approval would be refused if application were being made for it in the first instance.

(2) Subject to subsection 10, where the Minister proposes to suspend or revoke an approval given under section 5 or 6,

Notice of proposal to suspend or revoke



the Minister shall, except where the approval is suspended or revoked with the consent of the approved corporation, serve notice of the Minister's proposal to suspend or revoke the approval, together with written reasons therefor, on the approved corporation.

Notice  
requiring  
hearing

(3) A notice under subsection 2 shall inform the approved corporation that it is entitled to a hearing under this section if the corporation mails or delivers, within fifteen days after the notice under subsection 2 is served on it, notice in writing, to the Minister requiring a hearing and the corporation may so require a hearing.

Powers of  
Minister  
where no  
hearing

(4) Where the approved corporation does not require a hearing under this section in accordance with subsection 5, the Minister may carry out the proposal stated in the Minister's notice under subsection 2 without a hearing.

Hearing

(5) Where the approved corporation requires a hearing under subsection 3, the Minister shall cause a hearing to be held to determine whether the approval should be suspended or revoked.

Idem

(6) Where the Minister causes a hearing to be held, the hearing shall be held by a person or persons appointed by the Minister other than a person or persons in the employment of the Ministry.

Application  
of 1971,  
c. 47

(7) Sections 4 to 16 and 21 to 24 of *The Statutory Powers Procedure Act, 1971* apply with respect to a hearing under this section.

Report to  
Minister

(8) The person or persons holding a hearing under this section shall, at the conclusion of the hearing, make a report to the Minister setting out,

(a) the findings of fact and any information or knowledge used by the person or persons in making any recommendations, any conclusions of law arrived at relevant to the recommendations; and

(b) the recommendations of the person or persons as to the suspension or revocation of the approval,

and shall send a copy of the report to the persons affected by the report.

Decision of  
Minister

(9) After considering a report made under this section, the Minister may suspend or revoke the approval to which the report relates and shall give notice of the Minister's

decision to the persons affected, specifying the reasons therefor.

(10) Notwithstanding anything in this section, the Minister, by notice to the persons affected and without a hearing, may provisionally suspend an approval given under this Act where the continuation of operations in accordance with the approval is, in the Minister's opinion, a threat to the health, safety or welfare of the children in the children's mental health centre and the Minister so states in such notice giving reasons therefor, and thereafter the Minister shall cause a hearing to be held and the provisions of subsections 2 to 9 apply. *New.*

8. In determining need for the purposes of sections 6 and 7, the Minister shall take into account in addition to all other relevant considerations, <sup>Determination of need</sup>

- (a) the services for children provided in approved children's mental health centres that exist;
- (b) the services for children that are available other than in approved children's mental health centres;
- (c) the number of children requiring the services of children's mental health centres;
- (d) the predictable continuing demand for children's mental health centres,

in the area, or in the area and any other area served or to be served by the children's mental health centre,

- (e) the relative priority of the program of the children's mental health centre in relation to all other programs for children funded by the Ministry;
- (f) the funds available to provide continuing services for children in approved children's mental health centres; and
- (g) the place or places of residence of the children served or to be served by the children's mental health centre. *New.*

9.—(1) The Minister may designate in writing any person to be a program adviser with such powers and duties for the purposes of this Act and the regulations and subject to such limitations, restrictions, conditions and requirements as the Minister may set out in the designation. <sup>Program adviser</sup>

## Remuneration and expenses

(2) The remuneration and expenses of any person appointed under subsection 1 who is not in the employ of the public service of Ontario shall be fixed by the Minister and shall be paid out of the moneys appropriated therefor by the Legislature.

## Powers of program advisers

(3) A program adviser may at all reasonable times and, upon producing proper identification,

(a) enter any children's mental health centre and inspect the facilities, the services provided and the books of account and other records therein; and

(b) inspect the books of account and other records of an approved corporation that pertain to a children's mental health centre. R.S.O. 1970, c. 68, s. 17 (1, 2).

## Access for inspections

(4) Every person when requested so to do by a program adviser shall permit the entry and inspection by the program adviser of the premises referred to in subsection 3 and shall produce and permit inspection of the books of account and other records therein and supply extracts therefrom.

## Obstructing inspection

(5) No person shall hinder or obstruct a program adviser in the performance of the program adviser's duties or refuse to permit the program adviser to carry out such duties or refuse to furnish the program adviser with information or furnish the program adviser with false information. *New.*

## By-laws

**10.** The by-laws of every approved corporation shall contain such provisions regarding the formation and composition of the board of directors of the approved corporation as the regulations prescribe and a certified copy of the by-laws and any amendments thereto shall be filed with a Director forthwith after they are made. *New.*

## Purchase of services

**11.** The Minister may, by written agreement or otherwise and upon such terms and conditions as may be agreed, purchase from any person, services for or on behalf of children suffering from mental, emotional or psychiatric disorders or any combination thereof and may direct payment of expenditures as are necessary for the purpose. *New.*

## Regulations

**12.** The Lieutenant Governor in Council may make regulations governing the management, operation and use of approved children's mental health centres and classes thereof, and, without limiting the generality of the foregoing, may make regulations,

(a) governing the admission of persons to and their discharge from approved children's mental health



centres, prescribing the conditions of eligibility and procedures for such admission and discharge;

(b) exempting designated,

(i) approved corporations, or

(ii) approved children's mental health centres,

or any class thereof from specified provisions of this Act or the regulations for such period or periods of time as the regulations prescribe;

(c) governing the accommodation, facilities, equipment and services to be provided in approved children's mental health centres or any class thereof;

(d) prescribing the qualifications of persons employed in approved children's mental health centres or any class thereof and prescribing the powers and duties of such persons;

(e) governing the establishment, location and construction of approved children's mental health centres or any class thereof and their alteration and renovation;

(f) prescribing the classes of payments by way of provincial aid to any approved corporation, or approved children's mental health centre or class thereof and the methods of determining the amounts of payments and providing for the manner and time of payment and the terms and conditions for the payment thereof and the suspension and withholding of payments and for the making of deductions from payments;

(g) prescribing additional powers and duties of program advisers;

(h) prescribing provisions to be included in the by-laws of approved corporations;

(i) prescribing the accounts and records to be kept, claims, returns and reports to be made and requiring budgets to be submitted by approved children's mental health centres and approved corporations;

(j) prescribing forms and providing for their use;



- (k) for the purposes of this Act and the regulations, defining "services" and "facilities" and prescribing classes of services and facilities;
- (l) establishing procedures by which a determination may be made by a person or persons of services that shall be provided in exceptional cases by an approved children's mental health centre or any class thereof and prescribing the person or persons who shall make such determination and what constitutes exceptional cases;
- (m) prescribing programs to be provided in an approved children's mental health centre or any class thereof;
- (n) prescribing additional powers and duties of a Director;
- (o) requiring approved corporations and approved children's mental health centres to provide such information as is prescribed and prescribing the persons to whom such information is to be given. R.S.O. 1970, c. 68, s. 21 (1); R.S.O. 1970, c. 69, s. 9; 1971, c. 50, s. 20 (6), *amended*.

**Service**

**13.**—(1) Unless otherwise provided for in this Act or the regulations, any notice required to be given, delivered, filed or served under this Act or the regulations is sufficiently given, delivered, filed or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the person's last known address.

**Idem**

(2) Where service is made by mail, the service shall be deemed to be made on the tenth day after the day of mailing unless the person on whom service is being made establishes that the person did not receive it or did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the notice until a later date.  
*New.*

**Offences**

**14.**—(1) Every person who,

- (a) knowingly furnishes false information in any application under this Act or in any statement, report or return required to be furnished under this Act or the regulations;
- (b) contravenes any provision of section 9,

and every director, officer or employee of a corporation who knowingly concurs in such furnishing of false information, or contravention by the corporation, is guilty of an offence and on summary conviction by the court is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than two years, or to both.

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$10,000 and not as provided therein. R.S.O. 1970, c. 68, s. 20, *amended*. Corporations

**15.** The following are repealed:

Repeals

1. *The Children's Mental Health Centres Act*, being chapter 68 of the Revised Statutes of Ontario, 1970.
2. Section 20 of *The Civil Rights Statute Law Amendment Act, 1971*, being chapter 50.
3. Subsections 1, 2 and 5 of section 1 of *The Children's Services Transfer Act, 1977*, being chapter 22.
4. *The Children's Mental Hospitals Act*, being chapter 69 of the Revised Statutes of Ontario, 1970.

**16.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment

**17.** The short title of this Act is *The Children's Mental Health Services Act, 1978*. Short title

